

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

OTSUKA PHARMACEUTICAL CO., LTD., : CONSOLIDATED CIVIL ACTION
Plaintiff, : NO. 07-1000 (MLC)
v. :
SANDOZ, INC., et al., :
Defendants. :

:

O R D E R

DEFENDANTS Apotex Corp. and Apotex Inc., moving to dismiss the second count for willful infringement in the First Amended Complaint (Civil Action No. 08-4958, dkt. entry no. 7), pursuant to Federal Rule of Civil Procedure ("Rule") 12(b)(6), to strike allegations relating to willfulness pursuant to Rule 12(f), and for an extension of time to file responsive pleadings (Civil Action No. 08-4958, dkt. entry no. 11; Civil Action No. 07-1000, dkt. entry no. 246); and plaintiff, Otsuka Pharmaceutical Co., Ltd., opposing the motion (Civil Action No. 07-1000, dkt. entry no. 255); and defendant replying thereto (Civil Action No. 07-1000, dkt. entry no. 258); and the Court having held an oral hearing on the motion on the morning of October 21, 2009; and the parties' counsel being present; and for the reasons stated on the record; and for good cause appearing;

IT IS THEREFORE on this 22nd day of October, 2009,
ORDERED that defendants Apotex Corp. and Apotex Inc.'s motion to dismiss the second count for willful infringement in the First Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b) (6) (Civil Action No. 08-4958, dkt. entry no. 11; Civil Action No. 07-1000, dkt. entry no. 246) is **GRANTED**; and

IT IS FURTHER ORDERED that defendants Apotex Corp. and Apotex Inc.'s motion to strike allegations relating to willfulness (Civil Action No. 08-4958, dkt. entry no. 11; Civil Action No. 07-1000, dkt. entry no. 246) is **GRANTED**; and

IT IS FURTHER ORDERED that Apotex Corp. and Apotex Inc. may file responsive pleadings to the remaining allegations set forth in the First Amended Complaint within ten days of the entry of this Order.

s/ Mary L. Cooper
MARY L. COOPER
United States District Judge